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DEPARTMENT OF COMMERCE

International Trade Administration

(A-602-808)

Silicomanganese from Australia: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (“the Department”) determines that imports of silicomanganese from Australia are being sold in the United States at less than fair value (“LTFV”), as provided in section 735 of the Tariff Act of 1930, as amended (the “Act”). The final weighted-average dumping margins of sales at LTFV are listed below in the section entitled “Final Determination Margins.”

DATES: Effective: (INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*).

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Robert Bolling, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4162 or (202) 482-3434, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 25, 2015, the Department published in the *Federal Register* the preliminary determination in the LTFV investigation of silicomanganese from Australia.¹ In the *Preliminary Determination*, we postponed the final determination until no later than 135 days after the date of publication of the *Preliminary Determination* in accordance with section

¹ See *Silicomanganese From Australia: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 80 FR 57787, (September 25, 2015) (*Preliminary Determination*).

735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and invited parties to comment on our *Preliminary Determination*. Moreover, as explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final determination of this investigation is now February 12, 2016.²

The following events have occurred since the *Preliminary Determination*. Between September 28, 2015, and November 11, 2015, the Department conducted sales and cost verifications of the respondent in this investigation, Tasmanian Electro Metallurgical Company Pty Ltd. (“TEMCO”) and its U.S. affiliate BHP Billiton Marketing Inc. On October 26, 2015, Felman Production, LLC (“Petitioners”) requested a hearing. On December 16, 2015, TEMCO and the Petitioners submitted case briefs. On December 21, 2015, TEMCO and the Petitioners submitted rebuttal case briefs. On January 11, 2016, the Department held a hearing in this investigation.

Period of Investigation

The period of investigation (“POI”) is January 1, 2014, through December 31, 2014.

Scope of the Investigation

The product covered by this investigation is silicomanganese from Australia. For a full description of the scope of the investigation, *see* Appendix I to this notice.

Verification

As provided in section 782(i) of the Act and 19 CFR 351.307(b)(1)(i), from September 28, 2015 through November 11, 2015, we verified the sales and cost information submitted by

² See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,” dated January 27, 2016.

TEMCO for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by TEMCO.³

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum accompanying this notice, and which is hereby adopted by this notice.⁴ A list of the issues raised to which the Department responded is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov>. The memorandum is available to all parties in the Central Records Unit, located at room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

³ See Memorandum to the File from Robert B. Greger, Senior Accountant, through Taija A. Slaughter, Lead Accountant, and Neal Halper, Office Director, regarding "Verification of Tasmanian Electro Metallurgical Company Pty Ltd. in the Antidumping Duty Investigation of Silicomanganese from Australia" (October 28, 2015); *see also* Memorandum to the File from Magd Zalok and Lilit Astvatsatrian, Enforcement & Compliance, Office IV, and David Richardson, Office of the Chief Counsel for Enforcement & Compliance, through Robert Bolling, Program Manager, Enforcement & Compliance, Office IV, regarding "Verification of the Sales Questionnaire Responses of Tasmanian Electro Metallurgical Company Pty Ltd: Antidumping Duty Investigation of Silicomanganese from Australia" (December 3, 2015); *see also* Memorandum to the File from Magd Zalok and Lilit Astvatsatrian, Enforcement & Compliance, Office IV, through Robert Bolling, Program Manager, Enforcement & Compliance, Office IV, regarding "Verification of the Sales Questionnaire Responses of BHP Billiton Marketing Inc.: Antidumping Duty Investigation of Silicomanganese from Australia," (December 10, 2015).

⁴ See Silicomanganese from Australia: Issues and Decision Memorandum for the Final Determination of Sales at Less Than Fair Value ("Issues and Decision Memorandum").

Changes to the Margin Calculation Since the Preliminary Determination

Based on a review of the record and comments received from interested parties regarding our *Preliminary Determination*, we made the following changes to TEMCO's margin calculation:

- We recalculated TEMCO's indirect selling expenses ("ISE") incurred in the United States based on verification findings;
- We recalculated indirect selling expenses incurred in the country of manufacture to reflect minor corrections and verification findings in the calculation of the indirect selling expense ratio;
- We eliminated from the U.S. and home market sales databases the loading charges reported under the fields DLOADU and LOADH, because these charges were double counted in that they were also reported under the fields PACK2H and PACKU;
- We corrected the CEP profit ratio due to a programming error in the Department's margin calculation program from the Preliminary Determination.
- We adjusted the by-product offset for silicomanganese fines generated during production to reflect the POI per-unit sales value.
- We adjusted the reported financial expense ratio to exclude interest income from long-term sources.

Final Determination Margins

The Department determines that the following weighted-average dumping margins exist for the period January 1, 2014, through December 31, 2014:

Exporter or Producer	Weighted-Average Dumping Margin (Percent)
Tasmanian Electro Metallurgical Company Pty Ltd.	12.03
All-Others	12.03

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. In this investigation, we calculated a weighted-average dumping margin for TEMCO, the only respondent in this investigation, that is above *de minimis* and which is not based on section 776 of the Act. Therefore, the Department assigned a margin to the all-others rate companies based on TEMCO's weighted-average dumping margin.

Disclosure

We will disclose the calculations performed within five days of the date of any public announcement of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all of entries of silicomanganese from Australia, which were entered, or withdrawn from warehouse, for consumption on or after September 25, 2015, the date of publication of the *Preliminary Determination*. Further, pursuant to CFR 351.210(d), the Department will instruct CBP to require a cash deposit equal to the amount by which normal value exceeds U.S. price as follows: (1) For TEMCO, the mandatory respondent listed above, the cash deposit rate will be equal to the dumping margin which the Department determined in this final determination; (2) if the exporter is not a mandatory respondent identified in this investigation, but the producer is, the cash deposit rate will be the rate established for the producer of the subject merchandise; and (3)

the cash deposit rates for all other producers or exporters will be 12.03 percent. The suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we notified the U.S. International Trade Commission (“ITC”) of our final determination. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine within 45 days whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that such injury exists, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on appropriate imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice will serve as a reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

February 12, 2016_
Date

Appendix I

Scope of the Investigation

The scope of this investigation covers all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines, and slag. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Low-carbon silicomanganese is excluded from the scope of this investigation. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.30.0000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary**
- II. Background**
- III. Scope of the Investigation**
- IV. Discussion of the Issues**

Issues:

- Comment 1: Indirect Selling Expenses Incurred in the United States
- Comment 2: Constructed Export Price Offset (“CEP Offset”)
- Comment 3: CEP Profit Ratio
- Comment 4: Double Counting of Packing/Loading Expenses
- Comment 5: Valuation of Ferromanganese Slag
- Comment 6: Inputs Purchased from Interested Parties
- Comment 7: Interest Income

V. Recommendation

[FR Doc. 2016-03627 Filed: 2/19/2016 8:45 am; Publication Date: 2/22/2016]